

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

ROBERT A. JOHNSON

PLAINTIFF

v.

Case No. 05-2136

THE CITY OF FORT SMITH, ARKANSAS;
THE FORT SMITH AIRPORT COMMISSION;
WILLIAM STRANDELL, individually;
JOHN R. DALLAS, individually;
THE UNITED STATES OF AMERICA;
WILLIAM HARDING, individually;
JOHN POLINSKY, JR., individually;
R. MARK HORN, individually;
KENNETH PYLE, individually;
GARY W. CAMPBELL, individually;
COLE GOODMAN, individually;
JERRY R. STEWART, individually;
JOSEPH HERRMANN, individually; and
RICK DERAMUS, individually,

DEFENDANTS

ORDER

Now on this 20th day of June, 2006, comes on for consideration **Plaintiff's Motion to Permit Discovery or, in the Alternative, for Entry of Scheduling Order (doc. 59)**. The Court, being well and sufficiently advised, finds and orders as follows:

1. Several defendants have filed motions to dismiss in this matter, which are currently pending before the Court. The plaintiff seeks to initiate discovery while the pending motions are being considered. The plaintiff argues that the pending motions to dismiss will not affect the needed discovery.

2. Several separate defendants have responded to the plaintiff's motion, and argue that the pending motions to dismiss could moot discovery issues with respect to certain parties and/or issues. The defendants also point out that the plaintiff seeks to initiate discovery despite the fact that the parties have not

conferred pursuant to Rule 26(f) of the Federal Rules of Civil Procedure.

3. The Court finds that plaintiff's motion should be **denied**. The Court further states that upon this Court's disposition of the pending motions, pursuant to Local Rule 16.1, an initial scheduling order be entered that will direct discovery with respect to the remaining issues and parties.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE